



515 N. Flower Street
Santa Ana, CA 92703
(714) 834-3397
www.oc.ca.gov/lawlib/

Transcript

Newsletter of the Orange County Public Law Library

November 2002
Volume 7 Issue 4

Let Freedom Ring

by Bret N. Christensen, Library Assistant

On September 25, 2002, actress Jessica Lange, speaking at a news conference in San Sebastian, Spain, made the following comment, "It is an embarrassing time to be an American. It really is. It's humiliating." When I heard these words, a particular feeling overwhelmed me. Not a feeling of agreement or of pleasure, but a feeling like I get when I see the American flag being desecrated. It was a feeling I cannot describe in pleasant company.

In spite of Ms. Lange's obvious disgust of America, and "for which it stands", this citizen has no feelings of humiliation when speaking of America. No, *this* citizen is proud to be an American. I am grateful to have been born in a country where I can walk the streets of my hometown and not fear being beaten up by a squad of "secret" police. I am thankful that I can go into any supermarket in America and see aisles of food waiting to be purchased. No words can express my joy at the fact that every time I turn on the faucet, clean, clear water flows freely.

On May 21, 1944, the preeminent jurist Learned Hand spoke before a crowd of several thousand people in Central Park on "I am an American Day". In the course of his remarks, Judge Hand stated, "We have gathered here to affirm a faith, a faith in a common purpose, a common conviction, a common devotion. Some of us have chosen America as the land of our adoption... What was the [reason we came to America]? We sought liberty: freedom from oppression, freedom from want, freedom to be ourselves."

What is freedom and what makes it so important? The American poet Archibald MacLeish noted that, "Freedom is the right to choose: the right to create for yourself the alternatives of choice." In his 2001 Thanksgiving message, Senator John Ensign declared that, "The freedom we so passionately embrace has been the envy of much of the world. We are proud of the United States of America and the principles for which it stands. Capitalism and democracy have allowed people from all over the world to come here and prosper and worship freely. No other nation in the world has done this like America has. This is why we were attacked. Freedom is the enemy to oppressive regimes."

Many people in other countries are not as fortunate as Americans. Even in such an enlightened time as now, people still struggle to obtain basic human rights that many Americans take for granted. Such freedoms include the right to vote,

(Continued on page 6)

The Missing Piece in the Three-Strikes Puzzle

by The Honorable Clay M. Smith, Member of the OCPLL Board of Trustees

In 1994, both the legislature and the electorate enacted substantially identical statutory schemes which were intended to respond to the human misery and economic loss caused by habitual criminal offenders. See *Penal Code* §667(b)-(i) (the legislative version) and *Penal Code* §1170.12 (the initiative version). These statutory provisions, commonly known as the "Three Strikes law," have been a source of increasing public debate since their initial proposal. In general, proponents of the law perceive it to be a measured and justifiable means of reducing recidivism and its effects. Conversely, opponents see the law as unnecessarily and unfairly draconian. Regrettably, however, this debate almost invariably omits what may be the most vital piece of the three-strikes puzzle: the power of the sentencing court to "strike prior felony conviction allegations in furtherance of justice..." *People v. Superior Court (Romero)*, 13 Cal.App.4th 497, 530 (1996).

(Continued on page 2)

Inside This Issue

| | |
|-----------------------------|---|
| Women's Rights-Another View | 3 |
| More About Dictionaries | 4 |
| California Light | 5 |
| Looking at the Web | 7 |
| Ask a Librarian | 7 |

An overview of the statute is helpful. Simply stated, the Three Strikes law categorizes a number of criminal offenses as “serious” (*Penal Code* §1192.7(c)) and “violent” (*Penal Code* §667.5(c)). The two categories are similar, but not identical, and include such crimes as murder, rape and first-degree burglary. A conviction for a first serious or violent felony (i.e., a “strike”) is punishable by the sentence nominally prescribed for such offense. A subsequent conviction for any felony, regardless of whether or not it is categorized as serious or violent, where the defendant has one prior strike, is punishable by “twice the term otherwise provided as punishment for the current felony conviction.” *Penal Code* §667(e)(1). A conviction for any subsequent felony, where the defendant has two prior strikes, results in a minimum sentence of 25 years to life imprisonment. *Penal Code* §667(e)(2)(A). See *People v. Superior Court (Romero)*, *supra*, 13 Cal. App.4th at 505-06.

The bone of contention in the public debate is often that the third felony conviction need not be serious or violent; any felony conviction will trigger the third-strike sentence. Thus, for example, a defendant with two strike priors (i.e., two prior convictions for serious or violent felonies) who is subsequently convicted of a relatively low-grade felony, such as petty theft with a prior theft conviction or possession of a small quantity of drugs for personal use, is subject to a minimum 25 years to life sentence.

In recent months, the level of public discourse pertaining to the Three Strikes law has intensified and it appears that those advocating a significant change in the law may be gathering momentum. This momentum has been fueled by at least three factors.

First, critics of the Three Strikes law have identified and brought to public attention a growing number of cases in which a relatively minor felony conviction has been the triggering event for a very lengthy sentence. For example, in a recent article Professor Erwin Chemerinsky described a case in which his client was given a sentence of 25 years to life in prison for stealing “an umbrella and two bottles of liquor worth \$43 from a supermarket on a cold, rainy night.” Chemerinsky, “Behind Bars,” *Los Angeles Daily Journal*, November 16, 2001, at 6. Professor Chemerinsky’s assertion is, of course, an oversimplification. A more fair characterization is that his client, like all incarcerated third-strike defendants, was punished not for the third felony alone, but rather for continuing to engage in felonious conduct after two or more prior convictions for serious or violent crimes. In any event, Professor Chemerinsky and other advocates for change are making a strong case that the Three Strikes law has resulted in some unjustifiably long sentences.

Earlier this year, Justice Souter, in a dissent from the denial of a petition for certiorari in a case which would have presented an Eighth Amendment challenge to the Three Strikes law, stated that “some 319 California prisoners are now serving sentences of 25 years to life for what would otherwise be misdemeanor theft under the California

scheme.” *Durden v. California*, 531 U.S. 1184-85 (2001). Although this fact alone makes the Three Strikes law neither unwise nor unconstitutional, it does demonstrate that the law is being regularly imposed in cases in which the triggering offense would under other circumstances constitute a misdemeanor punishable by not more than six months.

Second, the Ninth Circuit recently struck down a third-strike sentence as violative of the Eighth Amendment’s prohibition against cruel and unusual punishment. In *Andrade v. Attorney General*, 2001 U.S. App. Lexis 23720 (9th Cir. 2001), the court held that a 50 year to life sentence imposed upon a defendant whose triggering felony conviction was petty theft with a prior theft conviction was “so grossly disproportionate to his crime that it violate[d] the Eighth Amendment to the United States Constitution.” *Id.* at 61. In that case, the defendant’s prior criminal conduct included three residential burglaries, transportation of marijuana, escape from federal prison, and petty theft; in all, five prior felonies and two misdemeanors. Although it may seem that Mr. Andrade was the type of career criminal for which the law was intended, a majority of the Ninth Circuit panel was persuaded that the imposition of a three strikes sentence was unconstitutional. The *Andrade* case may bolster the critics’ contention that many three-strike sentences are not just long, they are unconstitutionally long.

Third, at least four justices of the United States Supreme Court have opined that the application of the Three Strikes law in cases in which the triggering conviction is petty theft with a prior theft conviction “raises a serious question” under the Eighth Amendment, *Riggs v. California*, 525 U.S. 1114 (1999). Although this denial of a petition for certiorari did not constitute a ruling on the merits, it does signal that at least a significant plurality of the justices have constitutional reservations regarding the Three Strikes law.

As the debate intensifies, the body politic will ultimately make a judgment about the Three Strikes law. The legislature, or the voters via the initiative process, may determine to amend the law, perhaps to require that the third felony conviction must also be a serious or violent felony. Conversely, our collective judgment may be that the law is appropriately structured and that the positive aspects of its consequences outweigh the negative.

Remarkably, to date the debate has virtually omitted a crucial factor—the power of a sentencing court to apply the Three Strikes law in a manner which avoids an unfairly harsh or even unconstitutional result. In *People v. Romero*, *supra*, 13 Cal. App.4th 497, the California Supreme Court held that a sentencing judge has the authority to disregard a prior strike for purposes of sentencing. This principle entrusts to the sound discretion of a trial judge the power to sentence a third-strike defendant as if he or she had one or even no prior strikes.

Of course, this discretion is not unfettered. A trial judge may only exercise this power upon a determination

(Continued on page 8)

WOMEN'S RIGHTS - ANOTHER VIEW

by John Quigley

In the last (August 2002) issue of *The Transcript*, the article "Suffragette City" reviewed the history of women's rights in this country. It included statements that: "Up through the 1920's, women in the United States had been generally viewed as slaves of their spouses... The concept of the woman being the property of her husband was generally an accepted practice. ... the Nineteenth Amendment ... did not immediately change the perception that women were mere chattel."

Now, these feminist statements are taken out of context, but there is no possible context that can make them true. They weren't true in the 1920s, or at any time in this country. For more legitimate past complaints, see *Root of Bitterness: Documents of the Social History of American Women*, GEN2 HQ1410.C68 (1972), and a recent analysis in *Women's Rights*, GEN2 HQ1236.5.U6L85 1995.

A summary of law is in *Sex Discrimination in a Nutshell*, GEN3 KF4758.Z9T48 1991. Today, women's rights are involved in two of the nation's most divisive issues, abortion and affirmative action. On these and other current topics, we generally reference only publications during the last 10 years. Other materials may be found by browsing in the shelves or catalog for similar call numbers, or searching our Legaltrac computer program.



ABORTION

California law is summarized in *Witkin's 2 California Criminal Law* 417-429, GEN3 KFC1100.W5 2000 (2002 Supp) and LawDesk CD-ROM. For other states, see *Is the Fetus a Person? A Comparison of Policies Across the Fifty States*, GEN3 KF481.S37 2000, and *Abortion and the States: Political Change and Future Regulation*, GEN3 KF9315.A92 1993. Commentary includes *When Abortion Was a Crime: Women, Medicine, and Law in the United States*, GEN2 HQ767.5.U5R378 1997, and *Hard Choices, Lost Voices: How the Abortion Conflict Has Divided America, Distorted Constitutional Rights, and Damaged the Courts*, GEN3 KF3771.J83 1993. Further information is in *Medi-Cal Funded Induced Abortion / Medical Care Statistics Unit*, CALIF CH984.A22 (1990-2000).

DISCRIMINATION

Treatises covering sex discrimination generally include other types, based on race, etc. For discussion of sex discrimination in education, see Matthew Bender's loose-leaf *4 Education Law* 10-92.21 et sub, GEN3 KF4119.E275 (2002 Rev).

For employment discrimination, see *Employment Discrimination and EEO Practice Manual for California Employers*, GEN3 KFC572.S57 2002. The most current materials may be in the loose-leafs *Employment Discrimination*, GEN3

KF3467.A6L37 (2002 Rev.), and *Employment Discrimination Law* (by Modjeska), GEN3 KF3464.M6 (2002 Supp). Also see West's hornbook *Employment Discrimination Law and Practice*, GEN3 KF3464.L4862 2001, and *Federal Law of Employment Discrimination in a Nutshell*, GEN3 KF3464.Z9P63 1999, plus ABA's *Employment Discrimination Law*, GEN3 KF3464.L56 1996 (2000 Supp.), and *Employment Discrimination Litigation: Developments and Strategies*, GEN3 KF3464.L45 1999.

SEXUAL HARASSMENT

Discrimination and harassment are related topics, discussed in *Litigating Sexual Harassment & Sex Discrimination Cases* (with CD-ROM), GEN3 KF3467.L4 (2001 Rev). Also see Nolo's *Sexual Harassment on the Job: What It Is & How To Stop It*, GEN3 KF3467.Z9P47 1998b, and the California Chamber of Commerce's *Stopping Sexual Harassment: An Employer's Guide*, GEN3 KFC573.W65K46 1999. More recent material is in *Sexual Harassment in the Workplace: Law and Practice*, GEN3 KF3467.C66 1999 (with 2002 Supp.), and ABA's *Sexual Harassment in the Public Workplace*, GEN3 KF3467.A7S49 2001. For a sociological view, see *Sexual Harassment and Social Change in American Society*, GEN2 HQ1237.5.U6M64 1996.

VIOLENCE AGAINST (AND BY) WOMEN

California materials include *California Judges Benchbook: Domestic Violence Cases in Criminal Court*, REF KFC1155.C346 2000, CEB CD-ROM Library, Nolo's *Domestic Violence and Abuse: How to Stop It!* GEN3 KFC1121.4.Z9W66 1996, and *Domestic Violence (Respondent)*, VIDEO KFC1121.4.D66R44 (1999). *Violence Against Women: Law & Litigation*, GEN3 KF4758.F733 1997 (1998 Rev), explains the Violence Against Women Act of 1994. *A Law of Her Own: The Reasonable Woman as a Measure of Man*, GEN3 KF9325.F67 2000, argues against a "warrior code." But *Violence & Gender Reexamined*, GEN2 HV6250.4.W65F45 2002, claims that gender is a factor in perception, not motivation, of violence against women. And violence isn't always by men. Recently, a woman was charged with biting her husband because he wouldn't have sex with her. He died from his infected wounds (but at least was buried in one piece).

THE BATTLE OF THE SEXES

A judicial official was accused of periodically gagging his secretary, tying her hands behind her back, and her feet, and carrying her around the office. Sometimes he would time her attempts to free herself, while he watched

(Continued on page 7)



MORE ABOUT DICTIONARIES

by Ann Marie Reilly, Library Assistant



“A word to the wise is sufficient”. If you don’t believe it, take a look at some of the Library’s dictionaries. There are many different dictionaries for different areas of law and, of course, dictionaries for foreign languages such as Spanish, Latin, French and German.

However, in the introduction to *Oran’s Dictionary of the Law Third Edition* (DIC KF156.O69 1999), the author calls his work “a guidebook to a foreign language. The language of Law uses mostly English words, but they rarely mean what they seem.” Many everyday English words have “technical definitions totally different from their ordinary uses.” Many words used in law “contain(s) more ‘leftovers’ than most languages” from Latin, Old French, Old English and obsolete words. Attorney General comes immediately to mind. Why is the person in that office not called General Attorney? The author also points out that “Everyday English definitions of legal words are omitted unless needed to **avoid confusion**.” (Emphasis added.) After the last entry, this dictionary also has three appendixes full of information:

“Appendix A. Where to go for more information.” There are entries numbers 1-8. Number 8 advises:

8. Computerized Legal Research.

The word you want may be hard to find, but it’s there. Some of the sources listed in numbers 1-7 are available in computerized form, and other computerized sources and research techniques are described at the end of Appendix C. Good hunting.

“Appendix B. Lawyer Talk.” The section is also written for “the person on the street”. The last admonition says:

What can a *nonlawyer* do about legal jargon? First, learn to recognize it. Legal language is less imposing once the “legalese” is stripped away. Next, ask for a translation when something you hear is confusing. And finally, don’t use it.

“Appendix C. Legal Research.” It deals with “Concepts in the Law; Techniques of Research; Sources of Law.” As mentioned above, “Computer-Assisted Legal Research”, which includes Westlaw, Lexis and web sites, can be found here on page 572.

Ballentine’s Law Dictionary. Legal Assistant Edition (DIC KF156.H36 1994) is a textbook and a very good one at that. It has a phonetic pronunciation guide. All legal terms are defined in plain English, and also showing the proper usage in sentences. The legal assistant edition also includes landmark court cases, federal agencies, federal statutes, abbreviations and acronyms. Pesky acronyms and full names for acts and agencies can be found in two places. **ADA and Americans with Disabilities Act** are alphabetically located on different pages. Another example is **RICO** or **Racketeer Influenced and Corrupt Organizations**

Act, which is quite a mouthful. **The Constitution of The United States of America** is included as an appendix as well as **NFPA Affirmation of Professional Responsibility**. NFPA is the abbreviation for the “National Federation of Paralegal Associations, Inc.” and includes the rules for the paralegal profession. Another little nugget is the word “ombudsman”. The concept originated in one of the Scandinavian countries and the original word has been kept and not translated. In Denmark it is “ombudsmand”, in Norway “ombudsmann” and in Sweden “ombudsman”. This dictionary explains the word in English (ombudsman) as:

A public official to whom citizens can address complaints concerning the government. The ombudsman’s function is to investigate such complaints, particularly those related to infringements of individual rights, and attempt to mediate an amicable solution.

Black’s Law Dictionary, Seventh Edition (Ref KF156.B53 1999), gives a more detailed description on page III5.

The library also has *The Medical Dictionary for Bad Spellers* (DIC R121.K236 1995). In the introduction the authors assure us:

Poor spelling has little to do with intelligence, level of schooling, family background, or heredity. Presidents and princes, Ph.D.’s and M.D.’s, poets and professors all boast bad spellers within their groups . . . The major cause is the complex pattern of English spelling and pronunciation. . . . Our medical language is further complicated by the extensive use of Greek and Latin terms. . . . Spelling errors made in medicine can have serious consequences – much more serious than the embarrassment or inconvenience of finding a wrong spelling in everyday life.

What a relief for those of us who are especially challenged when trying to remember medical terms originating from Latin and also Greek. Other languages also seem to creep in. “Mitleschmerz” sounds English/German but the correct English spelling is “mittelschmerz”. Since “Mittel” can mean medicine and “Schmerz” means pain, it might indicate it is a pain reliever. Ménière’s syndrome sounds like a French name and a very serious ailment at that. This book is divided into three parts:

Section 1 Words Arranged by Their Common Misspellings and the Correct Spellings.

Section 2 Words Commonly Confused Because They Look Alike or Sound Alike.

(Continued on page 7)

California Light!

Yearend book display celebrates California Impressionism

by W. Clifford Vining, an artist wannabe

After nearly a year of taking somber note, both visual and written, of the dangers of violent, psychopathic fanaticism facing our world, a substantive change in subject matter was needed for the Library's yearend book display. As much as the day should follow the night, to paraphrase the Bard, so the spirit of space and light should replace the dark, crowded heart of grief for the tragic loss of life of September 11, 2001. Time deemed it appropriate for the light of benevolent images to dissolve the malevolent shadows of smoke and fire. The earth and humanity were not meant to suffer indefinitely the carnage of the terrorist.

Nothing could be more fitting, then, than to display nine glorious volumes of California Impressionism, thanks to the generosity of the Irvine Museum, located at 18881 Von Karman Avenue, Suite 100, Irvine, California.

The paintings represented in these volumes interpretively - yet faithfully - capture California's sunlit landscapes and strikingly dramatic seashores. The visual experience can only be salubrious upon the spirit of any overworked resident of Orange County, as well as any judiciously harassed soldier of our legal community. These paintings comprise a reminder of not only the geographical variety of our Golden State, but of the *moral* as well as aesthetic goodness of the natural land.

Now, it shouldn't be all that surprising, nor disquieting, to think casually of the earth in moral terms. Granted, one cannot really discern a "consciousness", or an actual "personality" to the green planet. When we talk of "Mother Nature" we don't mean it literally. The specificities of empirical reality and the requirements of exact language make their daily demands upon our overly legalized souls. Yet, humanity through the ages has drawn much of its spiritual sustenance from the land, sky and sea. In our better moments of awareness, we feel an unbidden reverence for the natural universe. Consequently, to import a moral value to the earth is neither all that fanciful nor anthropomorphic. Artists have been doing it for ages, and they do it because they at least subconsciously remember the moral significance of being human, of making moral choices to pursue happiness upon this earth in a positive, productive, creative manner.

Naturally enough, these choices would not be possible if one grew psychologically detached from the various forms of botanical and biological life one finds upon the earth. Attachment is the antecedent ground for the development of loyalty, and loyalty more often than not is the seedbed of morality. So, it is easy to speak of the moral goodness of the natural world. The natural world, after all, gave us life and through our efforts still sustains us. Un-

surprisingly, artists who derive their inspiration from the natural world, speak of the earth's goodness through their art. In doing so they become part of the very real world of nature. Indeed, there are times when the artistic rendition seems more real than reality itself.

Real world art is a result of identifying and recreating the "worthwhile" in light of the intentional perspective of the artist. Nothing in these volumes is anything less than worthwhile. They are all certainly worth reading, reviewing and the pictorial contents worth contemplating. They may even inspire some to a deeper loyalty to the natural world, a world that compellingly invites the weary soul to stop and simply contemplate its daily wonders.

As many artists have known in their own lives, contemplation of undeveloped nature is capable of bestowing the redemptive promise of coming to terms with oneself, of motivating one to take a "second chance", so that one may prove faithful to oneself and to others, of even discovering how one's life "fits" into the Big Picture. Ironic and paradoxical though it may seem at times, the simple truth is that undeveloped nature is capable of restoring one's soul to the level of self-accepting responsibility. One then manifests this renewed responsibility by reclaiming the human quality of positive productivity.

Productivity, of course, leads to societal as well as individual, material development, and material development is always a threat to the natural universe. This threat, however, is a threat that has always accompanied humanity's progress. Yet, progress need not be destructive of nature. Man not only can reclaim the spiritual need for productivity, but also rediscover the need to live in harmony with nature's wider world.

In fact, man may discover - with an artist's fresh sight - that a genuine command of nature not only demands obedience to nature, but also a sincere willingness to seek to live in harmony with nature. To once again offer a paraphrase, this time from the esteemed American architect, Frank Lloyd Wright, humanity's development and inventiveness should always be a grace upon the land - never a disgrace.

GIFTS OF THE IRVINE MUSEUM

All Things Bright and Beautiful, located at GEN2 QH76.5. C2W52 2000. The companion volume to a traveling exhibition of California Impressionism during 1998, the 106 illustrations irrefutably demonstrate why the Golden State is considered an "artist's paradise." Essays by four luminaries of art criticism accompany the reproductions.

California: This Golden Land of Promise, located at GEN2

(Continued on page 6)

F862.S635 2001. If you are a Californian, then you should have this magnificent volume on your coffee table. One would find it difficult to find its equal in vividly capturing the enchantment of early California in all her natural glory and enticing promise.

Guy Rose: American Impressionist, located at GEN2 ND237.R716S68 1995. This oversize volume is a resplendent tribute to the artist. Rose is one of the very best Impressionists at anytime, anywhere. It's puzzling why the critics neglected him for so long. Joan Irvine Smith, founder of The Irvine Museum, should be proud in having aided in his rediscovery.

Impressions of California: 1850-1930, located at GEN2 ND230.C3I46 1996. Showcasing a variety of artistic interpretations, the volume handsomely presents the "changing views of nature in an era of optimism."


Native Grandeur, located at GEN2 QH76.5.C2W52. This is the one volume that everyone should see. Published by the Nature Conservancy of California, it is a passionate and literary plea to save California's vanishing landscapes. David Wicinas recounts the activities and achievements of the private, non-profit Conservancy in its mission of preservation and protection of the natural world. Joan Irvine Smith has written an excellent preface in reflecting upon the early history of the Irvine Ranch and the struggles of her great-grandfather, James Irvine I. She then follows with a historically informative afterword on the "earthly paradise". Lastly, one finds Jean Stern, the Executive Director of The Irvine Museum, writing on the cultural significance of American landscape painting and the profound influence of Realism and Impressionism on California painters.

Palette of Light, located at GEN2 ND135L5.I78 1995. This comparatively small volume reproduces many of the plein-air paintings of The Irvine Museum, which went on tour during 1995-96. Five California art museums participated in the tour. Brief biographies of the artists are included, as well as another superb essay on Realism and Impressionism by Jean Stern.

Reflections of California located at GEN2 ND230.C3S74 1994. This volume is a wonderful tribute to the life and times of a remarkable woman, Athalie Richardson Irvine Clarke, co-founder of the Irvine Museum, and mother of Joan Irvine Smith. I was delighted to discover that Ms. Clarke was a first rate fashion artist. Take a look at pages 50 and 51 of this splendid volume of California and Orange County history.

Romance of the Bells, located at GEN2 NA230.C3R66 1995. If you love California's missions, then you will love this exceptional volume of the romantic missions as interpreted by artists from 1850 to 1950. It is difficult to conceive how multifaceted California could have become a state in the absence of the culturally cohesive missions.

The historical essay on Mission San Juan Capistrano, the "Jewel of the Missions", by local author, Pamela Hallan-Gibson, is highly informative.

Selections from the Irvine Museum, located at GEN2 ND230.C3S743. Providing a dazzling, visual enrichment, the selections in this slim volume "stand in silent testament to our regard for the environment", as Joan Irvine Smith eloquently states in the introduction. 

Let Freedom Ring
(Continued from page 1)

to travel, to openly express opinions, the right to a fair trial, the freedom to bear arms, and the right to practice one's religion without fear of retribution.


Notwithstanding the complaints of some "experts", America has some of the best schools and libraries in the world. A century ago scholars had to travel hundreds of miles to find equivalent facilities. Today, all we have to do is jump in our cars and drive a few minutes to the local public library. Further, every child in America has the opportunity to attend school without cost through the 12th grade – a privilege granted to only a select few in other countries.

America's bounty, not just its food, but also its economic and technological dynamism, helps energize the world. Generations of hardworking men and women have cultivated our soil and developed our land and commerce. From the mountains, to the prairies, to the oceans white with foam, Americans today have a standard of living that most people in the world only dream about.

Nearly half a century ago, President Dwight Eisenhower proclaimed Thanksgiving as a time when Americans should celebrate "the plentiful yield of our soil, the beauty of our land, the preservation of those ideals of liberty and justice that form the basis of our national life, and the hope of international peace."

On Thursday, November 28, people all over America will gather to eat turkey and give thanks for their blessings. While parts of the world are still in turmoil, we can give thanks for all that we have. In giving thanks, it is just and proper for Americans to hope for a future wherein all mankind can receive the blessings of a freedom with which we have been so richly endowed. Let freedom ring in our hearts this Thanksgiving season and in the hearts of the leaders of this great country.

Sources:

<http://www.mediaresearch.org/notablequotables/nqwelcome.asp>; The Spirit of Liberty (3rd ed), KF372 .H35D55; http://ensign.senate.gov/news_office/Ops_Ed/2001/thanksgivingoped.htm; <http://www.usembassy.de/consular/leipzig/speeches/lz251199.htm>; <http://usinfo.state.gov/usa/infousa/facts/symbols/songs.htm>; <http://www.whitehouse.gov/news/releases/2001/11/print/20011116-3.html> 

bondage videos. His attorney told the Texas Judicial Conduct Commission that these "little games" didn't interfere with his client's official duties. (Reported in *The National Law Journal's* annual report on "Judges Behaving Badly", May 7, 2001, MICROFICHE K14.A858)

An unhappy client complained about the service provided by her attorney. After listening to her problems, he reportedly advised her "you've been a bad girl" and spanked her, on two separate occasions. You won't find that remedy in Dobbs! A recent movie, *The Secretary*, may have been inspired by a state commission's finding that the attorney also disciplined his secretary's typographical errors with weekly spankings. It was reported that other local lawyers, who were aware of this rascal's antics, referred to his firm as "Spanky and the Gang". Attorney Grievance Commission of Maryland v. Goldsborough (1993), 330 *Maryland Reports* 342, GEN4 KFM1245.A2.

Such anecdotes about a few bad men seem to have convinced women that they have to fight violence with violence – in short, to be more like men. No longer the "gentler sex", they are often portrayed in action films bobbing around and kicking men where it really hurts. 📖

LOOKING AT THE WEB

by Mora Prestinary, Reference Librarian



There is a plethora of dictionary sites on the Internet. Try some of these:

- ✧ <http://www.onelook.com/> OneLook
- ✧ <http://www.nolo.com/lawcenter/dictionary/wordindex.cfm?t=0030TOOLS03202000>
NOLO's Legal Dictionary
- ✧ <http://www.yourdictionary.com/> YourDictionary
- ✧ <http://www.duhaime.org/dictionary/diction.htm>
Duhaime's Legal Dictionary
- ✧ http://www.ulib.iupui.edu/subjectareas/gov/docs_abbrev.html Abbreviations and Acronyms of the U.S. Government
- ✧ <http://www.acronymfinder.com/>
AF Acronym Finder
- ✧ <http://www.bartleby.com/62/>
Roget's II: The New Thesaurus
- ✧ <http://www.rhymezone.com/> Rhyming Dictionary 📖

Ask a Librarian Question of the Quarter

by Mora Prestinary, Reference Librarian

Q: Are the California Codes on the Internet?

A: Yes, the official California site for the Codes is : <http://www.leginfo.ca.gov/> This site also includes the current senate and assembly bills as well. 📖



Dictionaries (Continued from page 4)

Section 3 Quick List of Correct Spellings so it can be checked that the correct spelling has been found.

Luckily, there are no descriptions of symptoms of illnesses, just the spelling of the words and nothing more.

Legal Practitioner's Abecedarian Manual or, if you turn the back cover over, *Kissing Legalese Goodbye* (GEN3 KF156.B7228 2001) is really one thin book but the first title ends at page 19. To access the second title, the book must be turned over in order to read the title, instructions and introduction. This title ends at page 40 where the book meets page 19. In the introduction, the author informs us:

This book is guided by two principles.

1. The KISS principle: Keep it Simple, Stupid.
2. Make every word count. Or, as Mark Twain put it in half as many words, "Eschew surplusage".

Kenneth L. Bresler, J.D., put this little informative booklet together. Mr. Bresler runs the "The Clear Writing Co." in the Boston area. On his website www.clearwriting.net/articles.htm (accessed October 24, 2002), Mr. Bresler points out the many places where we all could benefit from using words that are better understood by most of us. The article, where Mr. Bresler describes the results of his applying clear writing while working as an associate in a big law firm, is very amusing.

This is just a small sampling; the Library still has lots of other dictionaries! 📖


that to do so would be in the interests of justice. Such a determination requires a comprehensive analysis of the defendant's criminal history, background, character, and other relevant information and a finding, based on supporting factors, which must be articulated for the record, that the defendant "may be deemed outside the scheme's spirit, in whole or in part, and hence should be treated as though he had not previously been convicted of one or more serious and/or violent felonies." *People v. Williams*, 17 Cal.App.4th 148, 161 (1998). See also, *People v. Strong*, 87 Cal.App.4th 328, 335 (2001), hearing denied, 2001 Cal.LEXIS 3966.

As a neutral observer of this debate, I suggest that the *Romero* rule should be brought to the forefront of the discourse over the future of the Three Strikes law. To those who support the preservation of the current structure of the law, *Romero* may be an effective rebuttal to the call for change. After all, *Romero*, at least in theory, provides a clear and existing legal basis for a trial court to avoid an unfairly harsh sentencing result or, as was found to be the case in *Andrade*, one which violates the Eighth Amendment.

At the same time, to those who advocate a change in the law, the underlying concept of *Romero* may represent the seed of a more appropriate and easily achievable remedy. In other words, rather than amending the law to elimi-

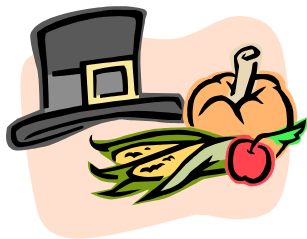
nate the possibility of imposing a third-strike sentence following a triggering conviction for a non-serious or violent felony, an amendment codifying and perhaps relaxing the principles of *Romero* and its progeny would encourage the exercise of such discretion in appropriate cases while preserving for trial courts the ability to impose a third-strike sentence following conviction for a non-serious or violent felony when the totality of the circumstances so dictate.

As the debate continues, both sides and particularly the decision-making body must be aware of the impact of *Romero* and its progeny. To date, the following question has not been asked, but it must be: Can *Romero* (or perhaps a refinement thereof) adequately address the concerns of both sides? Stated another way, can *Romero* be adapted to prevent future *Andrade* results while at the same time preserving the power of trial courts to impose a third-strike sentence where deserved, even though the triggering felony conviction, standing alone, is neither serious nor violent? Unless these questions are adequately considered, a fully informed decision on the future of the Three Strikes law is not possible.

Clay M. Smith is a judge of the Orange County Superior Court ...The author acknowledges the valuable research and editorial assistance of Ms. Diane Jones. 

****The preceeding article was originally published in the *Orange County Lawyer*, February 2002, vol. 44, no. 2. Reprinted here with permission.**

OCPLL will be closed for the following Court Holidays



November 28-29, 2002, Thanksgiving
December 25, 2002, Christmas
January 1, 2003, New Years Day
January 20, 2003, Martin Luther King Day
February 12, 2003, Abraham Lincoln's Birthday
February 17, 2003, Presidents Day

Special Hours December 24, 2002, Open 8:00a.m.- 2:00p.m.

Regular Library Hours

| | |
|-----------------|------------|
| Monday-Thursday | 8 am-10 pm |
| Friday | 8 am-6 pm |
| Saturday | 9 am-6 pm |

Closed Sundays and Court Holidays

The Orange County Public Law Library
derives its income
from a portion of the filing fees in civil cases
heard in the Superior Courts of Orange County, rather
than from general tax funds.

Transcript Staff

Carole Brotherton
Bret Christensen
Mora Prestinary
John Quigley
Ann Marie Reilly
Margarett Rogers

Editor
Victoria Garrott-Collins